

THE ADMISSION OF KANSAS.

S P E E C H

OF

HON. JOHN THOMPSON, [✓]

OF NEW YORK,

²⁵⁻¹⁰
IN THE HOUSE OF REPRESENTATIVES,

MARCH 31, 1858.



WASHINGTON, D. C.
BUELL & BLANCHARD, PRINTERS.
1858.

1683

.T47

SPEECH OF MR. THOMPSON.

MR. CHAIRMAN: He who mingles in a conflict in which the fanaticism of passion has been awakened on the one hand, and the fanaticism of interest on the other, each forgetful of its opponent's rights, and is just enough and bold enough to tell only the truth, without coloring or abatement, occupies a post at once of responsibility and of peril; he is sure to satisfy neither party while he rebukes both, and, like a peacemaker in the heat of battle, may fall under the shot of both lines, of which he is deemed to be equally the enemy. Week after week have we listened to moral lectures on the evils of Slavery, from one party, met by a recital of its blessings, its Divine authority, and threats of disunion if its political influence is abated, from the other party. Each accuses the other of designs to subvert its rights. The North fears she is to be subjugated by the South; the South fancies she is to play the part of conquered provinces, chained to the chariot wheels of Northern aggression. Higher and higher rises the cry of warning, remonstrance, and intimidation! Sir, is this fanatical game to go on unlimited and unrebuked? Is no man bold enough to step between the parties, and as a "Day's man," lay his hand upon them both? Shall each swell the waves of excitement from the North and South, until, as the wild surges meet on this Capitoline Hill, this structure of strength and beauty (emblematical of the institutions it symbolizes) is swept away,

leaving not one stone upon another, and time's latest and best empire prove, after all, the frailest? God forbid! Though coming from the Empire State, and representing a district second to none in patriotic loyalty and political intelligence, it is well known I am no political Abolitionist, nor desirous of meddling with the domestic institutions of the South, wherever they lawfully exist. As a statesman, I have no right here to intrude even my advice, because it may exasperate where it cannot cure. When they desire my counsel, they will probably ask it, and it will then be time enough for me to express my sentiments as a Christian, or philanthropist, upon this creature of local law. As such it doubtless has its rights, under the provisions of existing laws, as well as security in the States where it is established. This institution, however abhorrent to Northern sentiment, is the growth of a century, and a century may elapse ere this Republic, under the wisest, calmest counsels, may witness its extinction. But for the interference of party politics, four, and perhaps five, States, where it now exists, would have abolished it, after the example of their sisters at the North. It is not necessary to say what I would do, should this or that case arise in the developments of Providence, and in the history of my country—no wise court pronounces judgment on a case not before it. Enough, that I feel bound to

stand by the law of the land and the compromises of the Constitution! So much on the one hand. On the other, I am no Slavery propagandist. I do not see in this thing that expansive element that is in danger of becoming straitened for room, and is casting about for new fields of enterprise, lest it should be driven in upon itself, and perish by a sort of spontaneous combustion! On the contrary, it existed at the Declaration of Independence in all the thirteen States of the Union. It has been dying out at the North, instead of expanding; it cannot live in a Northern atmosphere; it perishes by the side of free labor, where ideas of social equality and equal political privileges so extensively prevail; it was ejected, not simply from humanitarian motives, but from those of economy to the master, and of vigor to the State, which is always weakened by the existence in it of a Helot race. Where every gentleman is a working man, and every working man a gentleman, there is no need of involuntary servitude. Labor is dignified, as well of the hand as of the head; and the toiling millions, who form the substratum of the social edifice, toil freely, cheerfully, for themselves and their children, and in the next generation stand on the topmost round of the ladder. Our "sills," at the North, are of granite and marble, and not "mud," and are therefore capable of being wrought into polished shafts and capitals, to adorn even this national temple with gracefulness and beauty.

We may speculate forever upon the superiority and inferiority of races, and upon the adaptation of color to climate. Sugar, tobacco, and cotton, have a vigorous grasp, which Northern and European consumption strengthens and tightens. We have no right to be impatient, denunciatory, or meddlesome. God only can solve this problem, which elongates its shadow beyond human ken, and in the mean time the master should remember that he is responsible to his servant and his Maker for every ray of intelligence he withholds, and every social and religious enjoyment he denies to this crea-

ture, whose body and soul are alike in his keeping.

At the North, the physical condition and moral elevation of the free people of color is not yet what philanthropy had hoped; and, moreover, a fearful diminution has taken place in their numbers, by disease, by poverty, by thriftlessness, by the social pressure of the white upon the negro, of the superior upon the inferior. That population is disappearing, until a few years hence they will, by an inevitable law, which seems to enfold them and the Indian alike, pass out of the vision of the Northern eye. With a different climate and relation as to numbers with a white population, emancipation would have been more tardy, and its results an unsolved problem.

However political parties may fight against it, the population of the Territories will be ultimate judges of what institutions they will establish, and Congress will admit them under the provisions of the Constitution.

Up to this hour, more than one hundred speeches have been made upon this floor, in reference to the affairs of Kansas; those who urge her admission doing it on the ground, chiefly, that a majority of her legal people ask such admission under the Lecompton Constitution; that it will allay the Slavery agitation of the country; that it is necessary to give to that institution a wider area; that the balance of power between the North and the South can be only thus preserved; and that, without this, there is imminent danger that several, if not all, of the Southern States will withdraw from the Union! On the other hand, it is urged that the people of Kansas have from the beginning been circumvented and overborne by a foreign domination; that they are opposed to the permanent and constitutional establishment of Slavery among them; that the adoption of this Constitution will create wider and fiercer agitation, resulting in civil war; that the idea of a balance of power in the General Government between the two-thirds and one-third is an unjust and obsolete idea; that power must follow

population; and that greater peril to the Union will result from the admission than from the rejection of this Territory with this Constitution; these, with many auxiliary and minor points, have been urged with great talent, zeal, and sincerity. I regret that honorable members, in the heat of debate, have sometimes indulged in the language of menace and intimidation, language always unsuited to the discussion of topics so grave and interests so momentous. It is not by threats or taunts, upbraidings or insult, nor by invidious comparisons, that we are to work out a solution of this difficult theme. To my mind there are presented questions of greater *immediate* interest, than whether Kansas shall be admitted with a Constitution establishing or recognising Slavery, for no man who knows anything of the tough hardihood and grit of the American character and will, can be doubtful of that issue, whether the knot is eventually cut by legal or martial weapons. If we do a great wrong to Kansas, she has power enough, material and moral, to right her wrongs, and the will to do it; from her position, environments, climate, population, educational and industrial forces, her State policy must eventually be a free policy, as well as that of Missouri, by her side, and no constitutional barriers or Federal armies can prevent it. If not stamped upon her institutions in their inception, for any cause, that policy will work on, repressed, yet omnipotent, until it leaps forth, like smouldering fire, to consume its fetters, and bathe the whole landscape in its light! But, sir, in the rapid unfoldings of this drama, it has constantly gathered in importance, and assumed aspects more portentous, becoming not simply a question of free or slave policy in a Territory, but one deep, broad, vital as the foundations of popular government, underlying the entire fabric of our national institutions, and to determine, in its issues, whether the popular will is to be respected—whether Government is longer to derive its powers from the consent of the governed—whether fair dealing or fraud shall be the rule—whether our Chief Executive

is a public servant or a despot—whether our Government is one of law or of force—whether the people shall govern themselves, or be ruled by a standing army in time of peace—whether the open and shameless violation of all the decorum and decencies of political institutions, promising the people that through the ballot-box their voice shall be heard, and falsifying it by the double crime of forgery and perjury, shall terminate in success or in detection and defeat. These are questions now looming up before us, and soon to receive a practical adjustment; for if our free institutions are prostituted to despotic ends; if men in office can defy the popular voice and triumph; if history can be falsified, facts perverted, violence and cruelty meet with approval; if a President, or party, or both, can defy and trample upon the people's rights, and come off victorious—then indeed have we fallen upon evil times; then is this whole fabric of civil government, for which so much blood has been shed, so much treasure expended, so many prayers offered, and with which humanity's progress and the world's hopes are linked, suffering disaster and derangement, and imperilled by shocks it cannot long survive. In view of these questions, it is comparatively immaterial what the Lecompton Constitution proposes to establish, whether servitude or a millennium, its precedents, its surroundings, its authors and abettors, write all over it the record of its condemnation. Yet it has been twice recommended by the President for adoption by Congress, as the basis of admission. It has been published; it is before us and the country, a document so singular and anomalous in its provisions, so pregnant with the doublings of political trickery, so fortified against abrogation or amendment, so hedged about by test oaths and double entendres, so prodigal of grace in one direction and so niggardly in another, that we ask involuntarily, is this the spontaneous expression of a free people? And we are answered, by their Delegate here, by their public meetings and prints, by their legislative expressions and protests, in a

voice we cannot mistake, pronouncing it a spurious document, not emanating in any sense from the people of Kansas; an outrage and a sham, in its inception, progress, and consummation; a stupendous swindle upon popular rights and sovereignty; a fraud, not only upon every principle involved in the ordinary mode of originating and perfecting State Constitutions, but equally so upon the peculiar creed and pledges under which it is pretended to be framed.

I.—*The Organic Act conferred no power upon the Territorial Legislature to call a Convention.*

Sixty men, calling themselves the Leecompton Convention, framed this Constitution. From whom did they derive their authority? from the Territorial Legislature! What authority resided in this Legislature to originate such a Convention? Was it conferred by Congress, whose special agent, with limited powers, this Legislature is? No such authority can be shown; and the settled doctrine, both as it respected Arkansas and Michigan, was heretofore that all such exercise of power to *originate a Constitution*, was, in the language of James Buchanan, in 1820, "*nothing but usurpation!*" To make it legal, to give it the form and show of a regular procedure, the power must emanate from Congress; for, to Congress is the government of the Territories alone committed; and, unless somewhere in the organic act the Territorial Legislature were authorized to set on foot measures to originate a State Constitution, it is as much a usurpation to propose one for Kansas, as if this same Convention had proposed one for Arizona or Utah! It has been contended, by gentlemen on the other side, that by the twenty-fourth section of the Kansas-Nebraska act, the legislative power of the Territory is declared to extend "*to all rightful subjects of legislation*," and that the authorization of a Convention is one of them. But by what rule is this act made one of them? Being a Territorial Legislature, its functions are purely Territorial, and cannot

reach beyond those subjects which are strictly such. Who gave it power to originate acts which contemplate its own extinction? No legislative body can do that *indirectly*, which it cannot do *directly*. Could it lawfully pass an act terminating its own existence? Such an act would be essentially revolutionary—not in pursuance of, but hostile to, the purposes of its creation. So far from being in the Territorial Legislature, it is not even in the people of Kansas, who are under the wing of the General Government, and can exercise no powers of a political character not conferred upon them by the laws of the United States. If such a Constitution is presented, it is of no higher force or authority than a petition; it binds no one, it concludes no one; it is no estoppel upon the people to remonstrate; it is no pretence in the face of objection for Congress to act. I know it is said that it has not been deemed material heretofore how a State Constitution *originated*, provided the people were agreed. But while this is true, it in no way impairs the force or validity of the objection to this Constitution, that it comes from a source entitled to no consideration as a duly-constituted body with power to originate it.

Says the President, in his message: "The Convention to frame a Constitution for Kansas met on the first Monday of September last. They were called together by virtue of an act of the Territorial Legislature, whose lawful *existence* [not power] had been recognised by Congress in different forms and by different enactments." Well, suppose this to be all true, may not a Territorial Legislature *exist*, and perform all its functions as such, in carrying on the machinery of Territorial Government without at the same time possessing any power to *originate* or *initiate* proceedings, by Convention or otherwise, which are to result in the extinction of the legislative body? Their power is, *ex necessitate rei*, bounded by lines which keep them from suicide, self-annihilation:

"A large proportion of the citizens of Kansas did not *think proper* to register

'their names," says the President, "and to vote at the election for delegates; but an opportunity to do this having been *fairly afforded*, the refusal to avail themselves of this right could in no manner affect the legality of the Convention." It is now clearly evident that the President was misinformed on this subject, it being ascertained not only that the citizens had no agency in the registration, which was omitted designedly by the officers having that in charge, but that in nineteen counties there was no census, and in fifteen counties there was no registry of voters, including some of the oldest, most populous, and best organized counties; and in which counties, therefore, not a vote could be given. But however this may be, I inquire if the Territorial Legislature had no power to authorize a Convention to change the organic law, how could the Convention *bind* any one to vote, or abstain from voting, and by what *right* are the original privileges of citizens curtailed or defeated, because they refuse to accept such an empty boon, and go through the parade of such meaningless forms? Voting or not voting, the "legality of the Convention" is not affected! It would have possessed no legality had they voted, and it has none now. Not having power to authorize a Convention, the Legislature had no power to prescribe the means and processes of calling it into being; the one falls with the other.

II.—*The Schedule an illegal Legislative Act.*

What has this Convention proposed, apart from the Constitution, in a most extraordinary paper called a "Schedule," forming no part of the instrument necessarily, but *dictating the mode of its adoption* and revealing to the people what they are permitted to do in regard to it? It is claimed by the President, that it intends *fairly* to carry out the provisions and spirit of the organic act of May 30, 1854; and that the Convention proposed this Schedule because "the act of the Territorial Legislature omitted to provide for submitting to the people the

'Constitution which might be framed by the Convention." Sir, I again inquire by what authority did the Convention draw up a Schedule dictating to the people of Kansas what they might or might not do, in reference to this notable achievement, by ordering an election on the 21st of December last? The President graciously tells us "the Convention framed it, because the Legislature did not;" or, in other words, Congress gave no power to the Legislature; and if it did, it has failed to exercise it, and therefore the Convention have done it themselves. Is this legal? There was no necessity for it; the Convention were to meet on the first Monday of September, 1857, but the Legislature doubtless supposed they might be a long time in deliberation, and that it might be safely left to a future Legislature to prescribe the mode of its submission to the people. Sir, this Schedule, in respect to this election, is an assumption, from beginning to end. It is nothing more nor less than an *act of legislation* by a single body, claiming to be of popular origin, but unapproved by any Governor, and having none of the features of ordinary legislation; an oligarchic ukase, or decree, as worthless and inoperative as a falling and withered leaf; it binds no one, it unbinds no one. The people may regard or disregard it, with equal impunity; and so it has been looked upon by the Territorial Legislature, who postponed the election of the 21st of December—ordered by the Convention on the Constitution—to the 4th of January, 1858, at which time the only legal expression of the popular will was had upon it, resulting in its rejection by over 10,000 votes. Under this Territorial law, the election of the 21st of December was a nullity, and so regarded by the people. But it is claimed that the Legislature had no power to alter the time appointed by the Convention. No power! Why not? All the legal power of the Convention was derived from the Legislature; and can the creature say to the creator, "I am sovereign?" Is there any question of contract or vested rights involved? Can a legislative body de-

nude itself of its plenary powers over its creatures and agencies, and that too by implication, so that they are held in abeyance until resumed by permission of the agency? What novel doctrine is this, and to what consequences would it lead?

Strange and Inequitable Provisions of the Schedule.

Look at the substance of this Schedule in other respects:

1. It tenders a ballot with one hand, and with the other presents a *test oath* to support the Constitution, if adopted, under the pains and penalties of perjury.

2. It submits only a single clause to the choice of the voter, and he must swear to support that for which he cannot vote, before he can vote at all upon this solitary clause.

3. It provides that all male inhabitants over twenty-one, in the Territory on the day of election, may vote, thus inviting back the hordes who overran it in former times, and who promptly responded to this invitation, in place of the quieter forces drawn from the Cincinnati Directory—spiritual voters, dispersed by the stroke of the Governor's pen.

4. The places of holding elections are not designated, nor the mode of canvassing or returning the votes, but all delegated to three commissioners, named, not by the Governor, nor by any responsible officer, but by the President of this Convention, who in this Schedule violates the solemn pledges made before his election, in writing, to submit the whole of this Constitution to the people.

5. The State election of January, 1858, was to be conducted under the auspices of this same set of judges, and we have seen the result of this.

6. No amendment of the Constitution can, by the terms of it, be initiated before 1864, nor be perfected short of 1870, and then only on two-thirds of the members of each House concurring; "but no amendment shall ever be made to affect the rights of property in the ownership of slaves." And after reading all this, the President adds, "that in the provisions of the Schedule providing for the

transition from a Territorial to a State Government, the question has been *fairly* and explicitly referred to the people."

Sir, I take issue with him on all points of his allegation. *Fairly* referred, when a test oath bristles in the fore-front of the whole proceeding? *Fairly* referred, when a single point only is submitted, and an oath exacted to support the rest of it, on which he has nothing to say? *Fairly* referred, when a stranger may vote who has not been there one hour, and may never be there again, only inhabiting *pro tempore*? *Fairly* referred, when one man, and such a man, has the whole power virtually of ordering the polls at inconvenient and unusual places; and is only to count the names returned on the poll lists, without any comparison of them with the ballots, and may carry the fate of this people in his pockets, as he has done, for months? What idea has the President of *fairness*, if this be the standard he adopts? Sir, I almost admire the daring of this "Rump Parliament" of Leecompton. They felt, evidently, that the people were not to be trusted with political power; they grasped hold of all the functions and prerogatives of government; they rolled the Governor's head in a basket; they bound and hampered with restrictions and restraints the free exercise of the elective franchise; they cut off the people virtually for twelve years from the power of change. "They had," the President tells us, "*an angry and excited debate*," and graciously concluded, by a majority of two, to submit a single clause of their labors to the people! Benevolent legislators! Condescending Democrats, to confer such a boon! The "factious majority" of Kansas ought to accept this bounty on their knees, or we should abuse them for mutiny and madness in its rejection! One step more would have rounded out the picture! Like the French Chamber of Deputies, that inaugurated the Reign of Terror, they should have declared their sittings perpetual, organized a standing army for its protection, calling it a "*posse comitatus*," by way of euphony, and to harmonize with modern nomenclature!

Do we read aright, when the message says, "the Convention was not bound by its terms to submit any other portion of the instrument to an election, except that which relates to the domestic institution of Slavery." Sir, who gave to this Convention power to arrogate to itself the decision of this question of submission or no submission? This sounds very much like the language of imperialism; it hath an arrogant and kingly tone; it comports only with the state and prerogatives of an unquestioned supremacy. No body of men, dealing with the first principles of political science, as understood and administered in a representative Republic, have a right to use it. No body of men, if authorized by the clearest sanctions to "propose, form, put in a shape," a Constitution, can wisely use it. Why not bound to submit it? Sir, they were bound to submit it, every letter and every line of it. If this Convention had any show of authority, it was a special agency to do a specific act; and, that act done, its power ceases. There is no pretence that, in the organic act forming the Convention, the Legislature bound the people to accept any and everything they might do, or fail to do; and that in advance their decrees should be deemed the voice of God, like the ravings of Brigham Young. I deny, indeed, that any Legislature of State or Territory has any power to delegate legislative functions to a Convention or committee, and bind the people in advance to their observance; and so thought the Kansas Legislature, who refused to recognise this assumption of the Convention, by ordering the election of the 4th of January, 1858.

What Institutions are Domestic.

Yet the President tells us that this submission of a single clause carries out the spirit of the organic act, and that the Convention was not bound to submit the whole Constitution, because "*nothing but Slavery is a domestic institution.*" Well, sir, owing to his Excellency's want of experience in the field of domestic relations, this criticism might be overlooked, if it did not involve issues and

rights of the gravest import. I had supposed that the domestic institutions of a people, in their corporate character as Territories or States, and which they were "*to form and regulate,*" in the exercise of political sovereignty, were all the institutions of the State, in like manner as the rules and regulations of the household are the domestic institutions of home, whether they relate to agriculture, finance, internal improvements, chairitable endowments, railways, or the terms and conditions of human servitude; and doubtless the power conferred in this principle covered all these matters of national concern, every one of them full as important as the last. So says Webster: "Domestic—the affairs of a State considered as a family, in contradistinction from foreign." But by the President's criticism the domestic institutions of Kansas are only "*the right of regulating their domestics.*" Why are all others ignored, and sought to be fastened on a people without their consent? Why are they to be cheated by the empty parade of a principle, every advantage of which is denied them? Is any reason given for this? Is it true that no difference of opinion exists on other topics? How do we know this? Was not the first Constitution proposed for Wisconsin, with its hard-money policy, sent back to the people on that issue, and voted down by them? and did not Congress embody the principle of *submission* in the Minnesota Territorial bill, and has it not become a rule and precedent in like cases? Is this the finale of the doctrine of popular sovereignty? Does it culminate in denying them all opportunity of choice, and must they take such institutions as their masters choose to give them for twelve years unaltered, because they are not "domestic?" Was it for this that the pledges and peace of thirty years were violated and broken up, and bitterness and heart-burning spread like fire-brands through every part of this wide Confederacy? Was ever such price paid, such hazards incurred, for such a boon? But gentlemen say here, it would have been voted down if submitted. Is not this a confession

of the whole iniquity? Why would they vote it down, but because all men see that in the only point pretended to be submitted there was a trick and cheat? because important provisions were contained in the Constitution not submitted, relating to banks, the State capital, county seats, the fugitive slave bill, upon which the people desired to be heard? because the entire machinery of the State Government, which the people had elected, was stricken out, and a virtual dictatorship instituted in its room; because it was the consummation and culmination of all those foregone acts of tyranny which had ground that people in the dust for years. But I need not recount all the difficulties in the way of the people of Kansas, to prevent their swallowing this document whole, for the privilege of voting on the slave clause.

The President wants "peace and quiet."

He tells us all other matters are of trifling consequence, and that Kansas has for some years occupied too much of public attention. Sir, the Chief Magistrate of this Republic ought to remember that no peace or quiet can come to a nation, unless justice and equity prevail in her councils; that there is no free American heart but will beat fast and fiercely under insult and wrong; that resistance and redress dog the footsteps of oppression; that government without representation is tyranny, however disguised; and that deep down, hidden among the earliest maxims the men of Kansas drank in from their mothers' lips is this, that resistance to tyrants is obedience to God. While we oppress, they will agitate, though soldiers sentinel every doorway, and bayonets gleam in every city; agitate, though every school-house be converted into a barrack, and every temple of God, like the "Old South," of Boston, stables the war-horse of the invader! This agitation is not aggressive, but protesting and defensive. Tread upon the worm, and when it squirms complain of agitation. Open a sore, closed and healed by the political surgery of 1850, and when the body politic shrinks and trem-

bles, as the knife goes down through marrow and nerve, call this tremor agitation. Etna may as well complain, while her boiling surges work in fierce convulsion, that the landscape above is not quiet; while the fires are raging the earth will respond, and if this agitation ceases they must first be put out. Think you, this young giant of the West, stretching his lusty limbs, and conscious of his mantling powers, can be crushed into quiet by the might of the Federal arm, called by the President a "*posse comitatus*?" What features of similarity does the President find between the standing army and a "*posse comitatus*?" Who does not know that the power of the country, its citizens acting in aid of its own officers, is as widely different from the standing army as the poles! In fact, the army was sent there to overawe and put down the people and their "*posse*." The army is not of the people, but acts in obedience to a central and imperial will. "When legal process is executed by the artillery and bayonets of a standing army, Liberty is dead. As well confound the letters *de cachet*, of the old French regime, with the writ of *habeas corpus*, as the standing army of the Republic with the "*posse comitatus*."

However desirable "peace and quiet," they can be purchased at too great a sacrifice. A pure despotism is the most quiet of all Governments. Better, far better, that the initial processes that make the foundation stones of empire be laid in tempest and hurricane, if justice and equity preside over the ceremony, and they lie upon the rock; than to imbed them beneath a clear sky and unclouded sun, if they rest upon the sand. The way to restore peace and harmony is to permit the people of Kansas to frame their domestic institutions in their own way.

"The People may change this Constitution in a brief period."

But, says the President, with wonderful adroitness, "If this Constitution is displeasing to a majority of the people, no human power can prevent their

“changing it within a brief period.” Does this look like a desire for peace and quiet? to have the Federal Legislature hang fetters about their necks, because no human power can prevent their breaking them off? Has the President well considered what struggles and convulsions, what strifes and excitements, such a change embosoms; what fierce elements it awakens in the conflict, of wrong with the show of legitimacy on the one side, and of right with the appearance of revolution on the other? What is this but sowing the wind, to reap the whirlwind? And in how short a time can this be done? It cannot be initiated until after six years, if we accept the assumptions of this instrument. One-fifth the average duration of a human generation! Is this statesmanship, or time-serving? Tell the exile that in a brief period he may again tread his native soil, and look upon the faces of his friends, and when his eye lightens with hope, say to him, after six years, and he will curse you for a mocking fiend! Tell a free people, now ripe for empire, and capable of forming their own institutions, that you will fasten upon them a Constitution they abhor and a policy they despise, and if they are not content they can change it in a “brief period,” and what must they think of your wisdom or sincerity? Sir, in this “brief period” this constitutional upas tree may entwine its roots and fibres into every fissure and crevice of State institutions; it may lock and hold with its banded strength every stone and buttress of this young member of the Republic, mingling itself with every interest and diffusing its poison through every avenue, until the very capacity of resistance dies out, or until men so tantalized and abused shake off the dust of their feet upon a soil tainted and defiled, and leave this fair portion of God’s heritage to wither and perish in the folds of an influence that spares nothing it can grasp. Sir, this “brief period” is about as long as the Revolutionary War. No free-man born on American soil will endure it. You may push power so far, and defer hope so long, as to provoke instant

resistance, and exasperate to open defiance without compromise or delay.

I have thus noticed the absence of all legal authority on the part of this quasi Lecompton Convention to prepare and send this Constitution to Congress for ratification or rejection; that in any event the people of Kansas are not to be subjected, like a conquered military province, to the rescripts of a central power, in respect to the form or principles of their Constitution; that the Administration is not consistent with its own avowed creed in forcing a Constitution upon them without their own free expression upon the whole, and upon every part of it; that domestic institutions in a State are something more than those regulating household domestics. I have exposed the fallacy of the President’s criticism upon language, as well as his reasoning upon affairs of State; I have shadowed out the uselessness and danger of pushing a free people beyond the point of endurance, and have tried to show that justice and fair dealing is the only safe policy of nations; and yet, sir, I am admonished by the history of the past few years that all this may be in vain. Step by step, as with the crushing omnipotence of fate, has the policy which now rules the Executive been advancing upon us, extending its Briarean arms until it enfolds every important interest of the Republic in its grasp. No man, as Governor or Secretary, has been found stern enough to do its behests upon the soil of Kansas. One after the other falls under the executive guillotine, because he cannot quiet the throes of this modern Enceladus, that shakes the earth each time he moves within his tomb. It is keen, active, versatile, tireless—it moulds and manages every national expression to a single purpose and end—it builds up year by year, beneath the calm surface of affairs, foundations of empire and aggrandizement, until by a sudden recession of the tide they stand revealed to the amazement of every eye. It has a logic as intuitive as it is sure, and according to which everything has followed in its order; no purpose balked, no prophecy of friend or foe unaccomplished,

but the end is not yet. "Logic," says Lamartine, "is the vengeance of God." Those messages have awakened a thrill of indignation in thousands of bosoms which no prior act could move; they have rolled the scales from many an eye which, once opened, nothing again can darken. Great masses of patriotic men have read them in sadness, and arose from their perusal as if an eclipse had covered up the sun. They have broken party ties and party entanglements, rendered imperative a new mustering of forces, and already the hosts are selecting their position, and the hour of preparation draws on. Sir, let it come. I care not who is leader. It is a conflict of great principles, now meeting face to face. There is no neutrality, no side issues, through which to escape the responsibility of their direct encounter. And yet, say gentlemen in an agony of laudation, "*the message is transparent.*" Well, sir, I think it does begin to be transparent, riddled like a drooping flag run up from the White House; the big rent in the centre shot through by the first gun from the Senate, which, traversing yon avenue, went point blank to the mark. It begins to be a transparency, the most transparent thing I ever saw, and we can now see stars, not *on* it, but *through* it.

"Non-Intervention."

But, sir, the principle of popular sovereignty, it now seems, has a new phase for the occasion, "non-intervention." It is now gravely urged that Congress is not to look behind the presentation here of a Constitution by the Lecompton Convention or its agents, but accept it as the valid expression of the popular will, and so pass it on the principle of non-intervention; on the ground that the doctrine of State sovereignty, carried to its logical and legitimate results, denies to Congress the right of interfering with inchoate incipient States, when taking the steps for emerging from the condition of Territories, precisely in the same manner as they have denied its right of interference in the organized States themselves. This doctrine is as ridiculous

as it is wicked. Congress is bound to scrutinize and review all the proceedings of a Territory in asking for admission, to see to the fairness of every step; that no oppression is attempted, no undue advantage obtained; that the Constitution proposed is the fair and honest expression of the popular will, and will promote peace and harmony. Congress has no right to separate the science of government from ethics, nor encourage the dangerous suggestion that Governments are not strictly bound by the obligations of truth, justice, and humanity. On this non-intervention principle, it is a question of superior speed, or of more adroit lying, in the messenger; the fleetest horse and the boldest front wins the day. A whole Directory of names may be returned by a corrupt commissioner, and the Governor is to certify it by non-intervention. It goes to the Legislature, and they look only to the *imprimatur* of the Governor, and it passes along by non-intervention, and a Delegate comes here, never chosen, by non-intervention. And so of this Constitution. If the votes, or their results, on the 21st of December, are as false as those rejected by Governor Walker, and every member of this House knows it, provided they are certified by this roving constitutional ballot-box, Calhoun, that is an estoppel upon Congress, and no man can say nay. The argument so often made here, that a majority of the new States did not first submit their Constitutions to the people, cannot be urged by any one who approved of, or participated in, the repeal of the Missouri compromise line; that act was repealed to assert a principle—popular sovereignty. How can its authors after that force a Constitution upon a new State, upon the whole of which the popular voice has not spoken. They are estopped from asserting and repudiating the same principle in the same breath.

Brief History of Kansas.

Kansas has a brief but bitter history, of misrule and Federal despotism. She was organized as a Territory, May 30, 1854; the organic act providing for a

Governor, Secretary, District Attorney, Marshal, and Judges, to be appointed by the President. By section 22, the legislative power is vested in the Governor and a Legislative Assembly, composed of two Houses—a Council of thirteen, chosen for two years, and a House of Representatives of thirty-six, to continue for one year—an apportionment to be made of these among the several counties; and, "Previous to the 'first election, the Governor shall cause 'a census of the qualified' voters to be 'taken'"—every free white male inhabitant being a qualified voter. This first election, under Governor Reeder, was to take place on the 30th of March, 1855. The qualified voters went to the places designated, to vote; what did they find? In every Council district, and in every Representative district but one, an armed mob from an adjoining State in possession of the ballot boxes, and voting for members of the Territorial Legislature; 4,900 of them doing this treason to the rights of the people of Kansas, and usurping the Government over them. The Governor was appalled by this invasion, and attempted to correct it, but had not the means of reaching the evil. Members, actually elected in some districts, to whom he gave certificates, were rejected by the creatures of the 4,900 invaders. This *quasi* Legislature opened its sittings, and assumed to pass a body of laws, which would not be credited, had not paper and type immortalized their infamy with that of their authors—a Draco code, more infernal than the bloody and barbarous edicts of the tyrants of eight centuries ago.

The actual voters of Kansas, having no voice in all this work of the invading hordes, peaceably assembled, and in Convention framed a Constitution; submitted the whole of it to the people, by whom it was approved, and asked for admission under it into the Union. They were rejected, because the Federal Government, in the face of all the facts to the contrary, assumed that the Government of the invaders was a *legal Government*, and pledged itself to maintain that usurpation. The President became *particeps*

criminis to this outrage upon popular rights, and then commenced that series of measures, unparalleled in the history of this country, *to force a Government upon an unwilling people.*

The standing army was summoned from every accessible post, and bayonets thrust at the throats of freemen, to compel them to form and regulate their domestic institutions in their own way.

Unwillingness to submit to a gang of marauders was denominated treason, and shooting and hanging were freely threatened to those who desired fairness and freedom in matters which concerned only themselves.

After the failure of several Governors to reconcile a free people to this combined local and Federal usurpation, Governor Walker was chosen, as peculiarly fitted, first, to legalize the fraud in the eye of the people, if possible, and if not able to do this, then to bring the Territory into the Union as an Africanized Democratic State. His own letters to the President, as well as his instructions from that functionary, abundantly prove this. Two years had passed away in bitterness and broil—two years of misrule, tyranny, and usurpation. A law was passed by this ruffian Legislature, authorizing the election of a Convention to frame a Constitution, ignoring the one already rejected by Congress.

The people insisted on an organization of the election districts, and a registration of legal voters, before going into another election. This was denied them, and they could not, therefore, vote. Not *one-ninth* of the voters in the Territory did or could vote. That one-ninth elected the members of the Lecompton Convention—Calhoun and his associates pledging themselves on paper to submit the whole Constitution to be framed by them to the people. This pledge is shamefully violated, and the President endorses it—quibbling about domestic institutions.

An election is held upon the slave clause—the people indignantly refusing to participate in the farce, but condemning the whole of it by the authority of the Legislature, on the 4th of January,

1858. Directories are copied, to furnish a show of voters on these occasions, and even Gov. Walker and Secretary Stanton, Presidential pets, are guillotined for declining to endorse the frauds.

A last farce in the Territory is enacted in the election, under this pretended Constitution, of *State officers*, by an apportionment based upon the fraudulent and spurious votes of non-residents in the Territory.

And even this farce cannot be played out, without forgery and perjury—1,400 votes being certified as given in two precincts—more than there are residents there; and, finally, the denouement of the whole is dug up from beneath a wood pile, and now forms the last plank in the platform of the present Democratic party, every man of whom must endorse all this unblushing wickedness and usurpation, before he can vote for the admission of Kansas under this Lecompton Constitution.

And this complication of wrong and outrage, perpetrated under the protection of Federal bayonets, is called *legal*! and gentlemen here, who would scorn to do a private wrong, call this result of infamy a legal Government! God forbid. Call it anything but *legal*. It is revolutionary, tyrannous, despotic, forcible, fraudulent; anything but legal. What! a paper stating that five hundred and forty-two votes were given, when forty-two were cast, a legal paper! or a forgery and fraud! Do not desecrate the law, by subsidizing even its forms to such mocking rascality; on this principle, a counterfeit note is legal.

How the President Desires to Live in the Affections of the People.

Why is this Constitution pressed with such vehement importunity? The more emphatically the people condemn it, the more fierce is the Executive persistency. The most unblushing frauds upon the ballot-boxes are detected and exposed, yet their shameless perpetrators lose none of their influence or regard. Governors and Secretaries who yield to the popular will are promptly rebuked and decapitated.

The military power is retained in Kansas, for the avowed purpose of keeping down the people, and compelling submission to a Government they abhor. And yet the President says he has "no other object of earthly ambition than to leave his country in a prosperous and peaceful condition, and to live in the affections and respect of his countrymen." Live in the affections and respect of the American people, when the popular will is trampled on or disregarded, and legal quibbles resorted to for the purpose of reconciling them to a despotism until they can shake it off? Live in the affections of the American people, when every western breeze comes laden with the cry of Executive oppression, which, if perpetrated by a King of Great Britain, would cost him his crown and his head? Sir, I wish the Executive would remember that no man can live *there* who plants the foot of power on the neck of Freedom, who throws the sword into the scale in the contests of the ballot-box, and brings all the machinery of governmental influence to bear upon subjecting an unwilling people to the despotism of his will.

What has any portion of our country to gain by such tyranny? Will it satisfy the North? The throb of the great Northern heart is that of sadness and indignation; the recent defenders of the President there are silent, and those who do not eat his bread are dumb. Will it satisfy the East? The Stamp Act and Tea Tax of a foreign Ministry were a feather in the scale, beside the grinding and insulting oppression of this measure. They fought, and we fought with them, for a *principle*; but here a principle has ripened into a crushing *fact*; they fought for that *principle* with the standing army of a mighty empire encamped at their doors. Is the East less patriotic now, and will she trample on a foreign foe and bow tamely to a domestic tyranny? Will it satisfy the South? No, sir! I think I know something about Southern sentiment and Southern honor. The history of our country blazes with the record of heroic achievements, patriotic loyalty, and devotion to our national flag, which her sons have exhibited on every battle

field and in every council hall, from the day when Morgan's riflemen followed the daring Arnold through a northern wilderness to Quebec, through all the strife and sufferings of the Revolutionary era to this hour. How her chivalric spirit responds to what is upright and true; how danger has been defied, peril encountered, and sacrifices welcomed, if they contributed to the strength and glory of our common country. I remember her Washington, and Jefferson, and Madison, her Sumter, and Pinckney, and Marion, their deeds of renown—our common heritage, their fame national and immortal; the voices of her Clay and Preston, yet resounding through the arches of these halls, and never raised but to testify their devotion to the institutions they honored and the country they loved. Sir, the great Southern heart, fervid and valorous as it is, will scorn to do a wrong. No temporary exasperation will satisfy its calm conscience, when memory holds up the record of an evil deed. To a generous heart, the sting of a wrong inflicted is keener than of a wrong endured. Will it satisfy the West, those young and growing empires, just emerged from Territorial pupilage, and already mightier than most of the old thirteen States? Will they approve of a policy to which they would have scorned submission, and stand tamely by, while the foot of Federal oppression is planted on the neck of a friend and brother? Will it satisfy anything but a dogged fanaticism of purpose, formed against the dictates of sound reason, and persisted in, in defiance of the remonstrances of nine-tenths of the nation?

Would that the President and his counsellors would remember that the path of empire is glorious only when illumined by the lustre of virtue and justice. The efforts of nations, age after age, to settle upon permanent foundations, have failed—signally and uniformly failed—because *power* was not wielded by principle, because public ambition was venal and selfish, because the hand that swayed the sceptre, and the tongue that ruled the will, were pledged and prostituted to craft and crime, and

so man could not attain happiness because he was not free; and he was not free because the wielders of governmental power brought its whole enginery of intimidation and corruption to bear so heavily upon his personal, social, and political being, that not only the desire, but the capacity to use and enjoy liberty was crushed out of him. It was only a few heroic hearts here and there that, like solitary altars, sent up the flame unquenched and unquenchable. Asiatic Governments, in all their phases, never presented the true idea—they were unmixed despotisms. The Greek and Roman illustrated it in caricature and distortion, but it grew in England under a free Bible and a free press. It flickered here and there under the throne of the First Charles, until it broke forth in wide display in the trumpet tones of Hampden, Russell, and Sidney; in the lofty strains of Milton, ringing like a superb anthem of "hallelujahs and harping symphonies;" in the iron trumpet of Cromwell's legions, and in the solemn utterances of Puritanic prayer; and on the breath of that prayer it was wafted in the May Flower across the Atlantic.

Look into the rotunda of this Capitol, and see Robinson, Bradford, and Miles Standish, and those pioneers of liberty on their knees, before they embark. But even here in the howling wilderness, the hand of oppression lay heavy upon them; and as colony after colony grew up, the stern patience, the heroic fortitude, the overcoming faith, that battled with a savage foe and conquered him, that struggled with a sterile soil and subdued it—these virtues, so grand and so ennobling, were rewarded by imposition, tyranny, and wrong, until patience became criminal, and acquiescence a deadlier evil than revolt.

The declaration of our independence followed—not a mass of "glittering generalities," composed and finished up for school-boy declamation and rhetorical effect, but every letter and line of which was burned into the souls of those who composed it. Sir, it was not only an announcement of eternal principles, founded in the nature of man, on his equality, on his in-

telligence, on his responsibility, but it was an indignant *protest* against the galling fetters he was determined no more to wear, and the blighting humiliations to which he had resolved never again to submit. Every word leaped forth from the living experience of men freeborn, who felt that humanity owned a common brotherhood and merited a kindred destiny; and now, sir, through all the experiences of former years, since that great declaration of human rights has been given to the world, since it was even sanctioned and acknowledged to some extent by the ancient nations whose sway it had broken, and whose policy it had frustrated and rebuked, it has gone forth over this continent, building up and animating State after State, moulding their institutions, dictating their laws and shaping their interests, giving them harmony, stability, and strength, until all at once we are brought to a stand, and here, in this Capitol, which it has builded and adorned, here, on this high altar, consecrated to Freedom, we find men who disclaim its holy evangel, and believe they have succeeded in turning against it some of the grandest institutions reared to illustrate its spirit and extend its blessings.

Would to God that the spirit of patriotism and self-sacrifice which animated the men that framed it would come back to her forsaken altars! Would to God that, forgetting all differences, and burying all discords, we could deliberate on every subject in a spirit such as pervaded the nation when State after State wheeled into rank under the banner of the Constitution, and strove which should be foremost in every noble and patriotic achievement; that, rising above all party lines and party ties, we could open our eyes wide enough to see what a sublime destiny lies in the future, if we remain true to the principles on which the pillars of our national greatness and renown repose; and blessed as we are with a heritage such as no living generation beside possesses—our broad domain washed by two oceans, our steamers plying in every zone, and our canvas whitening every sea, our valleys smiling with abundance, and our cities glittering with the trophies of industry and art—let us beware how we imperil it all in the mere lust of party power, perchance to be wielded only amidst the desolations of civil war!

LIBRARY OF CONGRESS



0 016 094 469 9



LIBRARY OF CONGRESS



0 016 094 469 9

